



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/442,773	11/18/1999	RYUICHI KATAYAMA	016778/0398	6370

7590 02/21/2003

FOLEY & LARDNER  
WASHINGTON HARBOUR  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 200075109

[REDACTED] EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT	PAPER NUMBER
2653	

DATE MAILED: 02/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/442,773	KATAYAMA, RYUICHI
	Examiner Aristotelis M Psitos	Art Unit 2653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 16 December 2002.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1 and 3-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 1 and 3-16 are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 November 1999 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. 09/442773.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

Art Unit: 2653

1. The request filed on 12/16/02 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/442773 is acceptable and a CPA has been established. An action on the CPA follows.

***Election/Restrictions***

2. This application contains claims directed to the following patentably distinct species of the claimed invention:

- a) a species drawn to a holographic lens arrangement in an optical focusing and tracking system, as per claims 3-5;
- b) a species drawn to an integrated holographic lens arrangement in an optical focusing and tracking system, as per claims 6-9;
- c) a species drawn to a prismatic optical head arrangement in an optical focusing and tracking system, as per claims 10-13;
- d) a species drawn to an optical head arrangement having both a prism and a HOE in an optical focusing and tracing system, as per claims 14-15.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious

Art Unit: 2653

variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

3. Due to the complexity of the above species election, no telephone call was made to applicant's representative.

4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143), as well as indicating all claims that read upon the elected species.

As indicated in the parent file, in the OA of 8/16/02, although applicant elected species "d" in the parent, no such election carries to the present CPA/Divisional. Furthermore, as stated on page 3 thereof, if applicant considers these species to be obvious variants over one another and indicates such, then the election of species would not be maintained.

Applicant is given 1 month (thirty days) within which to reply to this requirement.

#### *Drawings*

The drawings are objected to for the reasons stated by the draftsman as found on PTOL-948 attached to the OA of 5/16/02. Failure to comply will result in abandonment of the application as indicated in that OA. The drawing requirements will not be held in abeyance.

Any inquiries concerning missing papers/references, etc. must be directed to: Group 2600 Customer Services at (703) 306-0377.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is: (703) 30504700.

Any inquiry concerning the merits of this communication or earlier communication from the examiner should be directed to Aristotelis M. Psitos whose telephone number is: (703) 308-1598. The examiner can normally be reached on Monday- Thursday 8-4 EST. Messages can be left on the recording device.

If attempts to reach the examiner, or any of the above telephone contact points are unsuccessful, the examiner's supervisor, W. Korzuch can be reached on: (703) 305-6137.

The FAX number for the organization where this application or proceeding is assigned is: (703) 872-9314.

Aristotelis M. Psitos

Art Unit: 2653

Senior Primary Patent Examiner  
Art Unit 2653



AMP  
February 20, 2003